

A bill for an act

relating to elections; establishing procedures for home rule charter jurisdictions that adopt ranked-choice voting; amending Minnesota Statutes 2006, sections 205.13, subdivision 2; 206.83; proposing coding for new law in Minnesota Statutes, chapters 206; 209; proposing coding for new law as Minnesota Statutes, chapter 204E.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[204E.01] APPLICABILITY.**

(a) This chapter applies to all elections conducted using ranked-choice voting. All other provisions of the Minnesota Statutes also apply, to the extent they are not inconsistent with this chapter.

(b) Except as otherwise provided, a jurisdiction that chooses to adopt ranked-choice voting pursuant to section 204E.03 must conduct the elections according to the method and procedures established by this chapter.

Sec. 2. **[204E.02] DEFINITIONS.**

Subdivision 1. **Definitions.** The definitions in this section apply to this chapter.

Subd. 2. **Ranked-choice voting.** "Ranked-choice voting" means an election method in which voters rank candidates for an office in order of their preference, and the ballots are counted in rounds that, in the case of a single-winner election, simulate a series of runoffs until a candidate meets the threshold and is declared the winner, or until two candidates remain and the candidate with the greatest number of votes is declared the winner. In the case of multiple-winner elections, the series of runoffs are simulated until all seats to be elected have been filled.

2.1 Subd. 3. **Ranking.** "Ranking" means the number assigned by a voter to a candidate
2.2 to express the voter's preference for that candidate. The first ranking, ranking number one
2.3 (1), shall be the highest ranking. A ranking of lower numerical value indicates a greater
2.4 preference for a candidate than a ranking of higher numerical value.

2.5 Subd. 4. **Highest continuing ranking.** "Highest continuing ranking" means the
2.6 ranking on a voter's ballot with the lowest numerical value for a continuing candidate.

2.7 Subd. 5. **Continuing candidate.** A "continuing candidate" is a candidate who has
2.8 been neither elected nor defeated.

2.9 Subd. 6. **Threshold.** The "threshold" is the number of votes sufficient for a
2.10 candidate to be elected. In any given election, the threshold equals the total votes counted
2.11 in the first round after removing defective ballots, divided by the sum of one plus the
2.12 number of offices to be filled and adding one to the quotient, disregarding any fractions.
2.13 Threshold = (Total votes cast)/(Seats to be elected + 1) + 1.

2.14 Subd. 7. **Exhausted ballot.** An "exhausted ballot" means a ballot that cannot be
2.15 transferred to a lower ranked candidate because the next ranking is blank or there is more
2.16 than one candidate given the next ranking.

2.17 Subd. 8. **Defective ballot.** A "defective ballot" means a ballot in which a first
2.18 ranking is not indicated or if more than one candidate is given a first ranking.

2.19 Subd. 9. **Surplus.** "Surplus" is the total number of votes cast for an elected
2.20 candidate in excess of the threshold.

2.21 Subd. 10. **Surplus portion of a vote.** The "surplus portion of a vote" is the surplus
2.22 divided by the total votes cast for the elected candidate, calculated to four decimal places.
2.23 Surplus portion of a vote = (Surplus)/(Total votes cast for elected candidate).

2.24 Subd. 11. **Transferable vote.** A "transferable vote" means a vote or a portion of a
2.25 vote if the candidate for whom it is counted is either elected or defeated.

2.26 Subd. 12. **Round.** A "round" is an instance of the sequence of voting tabulation
2.27 steps established in section 204E.06 and 204E.07.

2.28 Subd. 13. **Ranked-choice voting tabulation center.** A "ranked-choice voting
2.29 tabulation center" is the place selected where a central count electronic voting system is
2.30 used for the automatic processing and tabulation of ballots.

2.31 Subd. 14. **Overvote.** An "overvote" occurs when a voter ranks more than one
2.32 candidate at the same ranking.

2.33 Subd. 15. **Undervote.** An "undervote" occurs when a voter does not rank a
2.34 candidate at any ranking.

2.35 Subd. 16. **Skipped ranking.** A "skipped ranking" occurs when a voter leaves a
2.36 ranking blank and ranks a candidate at a subsequent ranking.

3.1 Subd. 17. **Duplicate ranking.** A "duplicate ranking" occurs when a voter ranks
3.2 the same candidate at multiple rankings.

3.3 Sec. 3. **[204E.03] IMPLEMENTATION OF RANKED-CHOICE VOTING.**

3.4 (a) A home rule charter city or county that adopts the use of ranked-choice voting in
3.5 local elections must adopt a charter amendment no later than two weeks before the first
3.6 day for filing affidavits of candidacy for the office for which ranked-choice voting is to be
3.7 used as the method of election.

3.8 (b) The use of ranked-choice voting may be eliminated through repeal of the charter
3.9 amendment no later than two weeks before the first day for filing affidavits of candidacy
3.10 for offices for which ranked-choice voting is used as the method of election.

3.11 (c) The chief election official in the jurisdiction must notify the secretary of state
3.12 and, if applicable, the county auditor within 30 days following adoption or repeal of
3.13 the charter amendment.

3.14 Sec. 4. **[204E.04] BALLOTS.**

3.15 Subdivision 1. **Ballot format.** (a) A ballot must allow a voter to rank at least
3.16 three candidates for each office in order of preference, and must also allow the voter to
3.17 add write-in candidates.

3.18 (b) The ballot must include instructions to voters appearing substantially as follows:
3.19 "INSTRUCTIONS: Mark your first choice in the first column by completely filling
3.20 in the oval next to your choice, as shown in the picture. To indicate a second choice, select
3.21 a different candidate in the second column. To indicate a third choice, select a different
3.22 candidate in the third column.

3.23 1. Rank candidates in order of your preference.
3.24 2. You may rank as few candidates as you wish or as many as is allowed.
3.25 3. Ranking additional candidates will not hurt your higher ranked favorite
3.26 candidates, but will increase your chances of your vote helping elect a candidate you
3.27 support.

3.28 4. Do not skip rankings.
3.29 5. Do not give the same ranking to more than one candidate.
3.30 6. Do not rank the same candidate more than once."

3.31 Subd. 2. **Mixed-election method ballots.** If elections are held in which
3.32 ranked-choice voting is used in addition to other methods of voting, the ranked-choice
3.33 voting and non-ranked-choice voting elections shall be on same ballot card if possible,
3.34 with ranked-choice voting and non-ranked-choice voting portions clearly separated on the

ballot card. A separate ballot card may be used if necessary. A jurisdiction may deviate from the standard ballot order of offices to allow separation of ranked-choice voting and non-ranked-choice voting elections.

Subd. 3. **Alpha-numeric character recognition.** A jurisdiction may use ballots compatible with alpha-numeric character recognition voting equipment.

Sec. 5. **[204E.05] RANKED-CHOICE VOTING TABULATION CENTER.**

The chief election official in the jurisdiction shall designate one location to serve as the ranked-choice voting tabulation center. The center must be accessible to the public for the purpose of observing the vote tabulation. Tabulation of votes shall be conducted as described in section 204E.06 and 204E.07.

Sec. 6. **[204E.06] TABULATION OF VOTES; SINGLE-WINNER ELECTIONS.**

Subdivision 1. **Applicability.** This section applies to a ranked-choice voting election in which one seat in office is to be filled from a single set of candidates on the ballot. The method of tabulating ranked-choice votes for single-winner elections as described in this section shall be known as the "single-winner single transferable vote" method of tabulation.

Subd. 2. **Precinct tabulation.** When the hours for voting have ended and all voting has concluded, the election judges in each precinct shall record and publicly declare the number of votes at ranking number one for each candidate on the ballot. The election judges may not announce or otherwise make public the number of votes for candidates at rankings other than ranking number one. The election judges must then securely transfer all ballots and electronic voting data from the precinct to the ranked-choice voting tabulation center designated pursuant to section 204E.05.

Subd. 3. **Ranked-choice voting tabulation center.** (a) Tabulation of votes at the ranked-choice voting tabulation center shall proceed in rounds. First the threshold shall be calculated and publicly declared. After calculation of the threshold, each round shall proceed sequentially as follows:

(1) The number of votes cast for each candidate, as indicated by the highest ranked continuing candidate on each ballot, shall be counted.

(2) Any candidate whose vote total equals or exceeds the threshold shall be declared elected.

(3) Candidates appearing on the ballot who do not receive any votes are defeated immediately, before any transfers.

(4) All candidates shall be defeated whose vote total, plus all potentially transferable votes from candidates with fewer votes, is less than the vote total of the candidate with the next higher number of votes, such that it is mathematically impossible for that candidate to be elected. All candidates for whom it is mathematically impossible to be elected shall be defeated simultaneously.

(5) The candidate with the fewest votes is defeated. Votes for the defeated candidate are transferred to each ballot's next-ranked continuing candidate. Ties between candidates with the fewest votes shall be decided by lot, and the candidate chosen by lot shall be defeated. The result of the tie resolution shall be recorded and reused in the event of a recount.

(6) Clauses (1) through (5) shall be repeated until one candidate reaches the threshold, or until two continuing candidates remain. In the latter event, the candidate with the most votes shall be declared elected. In the case of a tie between two continuing candidates, the tie shall be decided by lot, and the candidate chosen by lot shall be defeated. The result of the tie resolution shall be recorded and reused in the event of a recount.

(b) If any ballot cannot be advanced because no further continuing candidates are ranked on that ballot, or because a voter has skipped a ranking or ranked the same candidate in two or more rankings, that ballot shall immediately be declared "exhausted." Any ballot that has been declared an undervote, overvote, or exhausted shall not count towards any candidate in that round or in subsequent rounds.

Sec. 7. **[204E.07] TABULATION OF VOTES; MULTIPLE WINNER ELECTIONS.**

Subdivision 1. **Applicability.** This section applies to a ranked-choice voting election in which more than one seat in office is to be filled from a single set of candidates on the ballot. The method of tabulating ranked-choice votes for multiple-winner elections as described in this section shall be known as the "multiple-winner single transferable vote" method of tabulation.

Subd. 2. **Precinct tabulation.** When the hours for voting have ended and all voting has concluded, the election judges in each precinct shall record and publicly declare the number of votes at ranking number one for each candidate on the ballot. The election judges may not announce or otherwise make public the number of votes for candidates at rankings other than ranking number one. The election judges must then securely transfer all ballots and electronic voting data from the precinct to the ranked-choice voting tabulation center designated pursuant to section 204E.05.

6.1 Subd. 3. **Counting method.** (a) Vote counting shall be conducted at the
6.2 ranked-choice voting tabulation center, and shall proceed in rounds. First the threshold
6.3 shall be calculated and publicly declared. After calculation of the threshold, each round of
6.4 the vote counting shall proceed sequentially as follows:

6.5 (1) The number of votes cast for each candidate, as indicated by the highest ranked
6.6 continuing candidate on each ballot, shall be counted.

6.7 (2) Any candidates whose vote totals equal or exceed the threshold shall be declared
6.8 elected. Surplus votes for candidates declared elected shall be calculated.

6.9 (3) Candidates appearing on the ballot who do not receive any votes are defeated
6.10 immediately, before any transfers.

6.11 (4) After any surplus votes are calculated but not yet transferred, a candidate shall be
6.12 defeated whose vote total, plus all potentially transferable votes from elected candidates
6.13 and candidates with fewer votes, is less than the vote total of the candidate with the next
6.14 higher number of votes, such that it is mathematically impossible for that candidate to be
6.15 elected. All candidates for whom it is mathematically impossible to be elected shall be
6.16 defeated simultaneously.

6.17 (5) The surplus portion of each ballot cast for an elected candidate shall be
6.18 transferred to the next continuing candidate on that ballot. If two or more candidates equal
6.19 or exceed the threshold, the surplus portion of the ballots cast for the elected candidate with
6.20 the most votes shall be transferred to the next continuing candidate on each ballot. The
6.21 surplus portion of ballots cast for other elected candidate(s), in order of vote totals, shall
6.22 then be transferred to the next continuing candidate on each ballot. A tie between two or
6.23 more candidates shall be resolved by lot and the candidate chosen by lot shall be defeated.
6.24 The result of the tie resolution shall be recorded and reused in the event of a recount.

6.25 (6) If there are no transferable surplus votes, the candidate with the fewest votes
6.26 is defeated. Votes for the defeated candidate are transferred to each ballot's next-ranked
6.27 continuing candidate. Ties between candidates with the fewest votes shall be decided by
6.28 lot, and the candidate chosen by lot shall be defeated. The result of the tie resolution shall
6.29 be recorded and reused in the event of a recount.

6.30 (7) Clauses (1) through (6) shall be repeated until all offices have been filled, or until
6.31 the number of continuing candidates is equal to the number of offices yet to be elected.
6.32 In the latter event, the remaining continuing candidate shall be declared elected. In the
6.33 case of a tie between two continuing candidates, the tie shall be decided by lot, and the
6.34 candidate chosen by lot shall be elected. The result of the tie resolution shall be recorded
6.35 and repeated in the event of a recount.

(b) If any ballot cannot be advanced because no further candidates are ranked on that ballot, that ballot shall immediately be declared "exhausted." Any ballot that has been declared an undervote, overvote, or exhausted shall remain so and shall not count towards any candidate in that round or in subsequent rounds.

Subd. 4. **Alternate counting methods.** Notwithstanding subdivision 1, a jurisdiction may use a different ranked-choice counting method for multiple-winner elections upon application to and approval of the secretary of state. The secretary of state must adopt rules governing the approval of alternative counting method applications.

Sec. 8. **[204E.08] WRITE-IN PROCEDURES.**

In the event that votes cast for the write-in category are not eliminated as provided in section 204E.06, subdivision 2, or 204E.07, subdivision 3, each ballot shall be examined by elections administrators and the results shall be entered in to the ranked-choice voting tabulation software.

Sec. 9. **[204E.09] REPORTING RESULTS.**

(a) Each precinct shall print a precinct summary statement, which must include the number of votes in each ranking for each candidate.

(b) The ranked-choice voting tabulation center shall print a summary statement, which must include the following information: total votes cast; number of undervotes and spoiled ballots; threshold calculation; total first choice rankings for all candidates; round-by-round tabulation results, including simultaneous batch eliminations, surplus transfers, and defeated candidate transfers; and exhausted ballots at each round.

(c) The election abstract must include the information required in the ranked-choice voting tabulation center summary statement, with the addition of registered voters by precinct and same day voter registrations.

Sec. 10. **[204E.12] RECOUNTS.**

(a) A candidate defeated in the final round of counting may request a recount as provided in section 204C.36.

(b) A candidate defeated in an earlier round of counting may request a recount at the candidate's own expense. The candidate shall be responsible for all expenses associated with the recount regardless of the vote difference between the candidates in the round in which the requesting candidate was defeated.

Sec. 11. Minnesota Statutes 2006, section 205.13, subdivision 2, is amended to read:

Subd. 2. **Notice of filing dates.** At least two weeks before the first day to file affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice at least ten days before the first day to file affidavits of candidacy. The notice must indicate the method of election to be used for the offices on the ballot. If ranked-choice voting is to be used for a multiple-winner election and the method of tabulating votes is different from that described in section 204E.07, the notice must also describe the procedure to be used to tabulate the votes.

Sec. 12. **[206.802] ELECTRONIC VOTING SYSTEMS; PURCHASING.**

Any new voting equipment purchased for use in the State of Minnesota for the purpose of upgrading to a new voting system must have the ability to:

- (1) capture and store ballot data;
- (2) keep data anonymous;
- (3) accept ranked or cumulative voting data under a variety of counting rules;
- (4) follow all other specifications of the ranked-choice voting system as provided in chapter 204E;
- (5) provide a minimum of three rankings for ranked-choice voting elections;
- (6) notify voters of the following errors: overvotes, skipped rankings, and duplicate rankings in a ranked-choice voting election;
- (7) print a zero tape indicating all rankings for all candidates in a ranked-choice voting election.

Sec. 13. Minnesota Statutes 2006, section 206.83, is amended to read:

206.83 TESTING OF VOTING SYSTEMS.

(a) Within 14 days before election day, the official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark ballots using all methods supported by the system, including ranked-choice voting if applicable, and through assistive technology, and count the votes cast for all candidates and on all questions. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question,

and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. If an election is to be conducted using ranked-choice voting, the equipment must also be tested to ensure that each ranking for each candidate is recorded properly.

(b) If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election.

(c) After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

Sec. 14. **[209.892] POSTELECTION REVIEW OF VOTING SYSTEMS;
RANKED-CHOICE VOTING ELECTIONS.**

Subdivision 1. **Definition.** For purposes of this section "postelection review official" means the election administration official who is responsible for the conduct of elections in a precinct selected for review under this section.

Subd. 2. **Selection for review; notice.** Thirty days before an election that will be conducted using the ranked-choice voting method pursuant to chapter 204E, the election administrator must set the date, time, and place for postelection review. Within four days of the election, the election administrator must select the precincts to be reviewed. Jurisdictions with fewer than 50,000 registered voters must select at least two precincts for postelection review. Jurisdictions with between 50,000 and 100,000 registered voters must select at least three precincts for review. Jurisdictions with over 100,000 registered voters must select at least four precincts for review. The precincts must be selected by lot at a public meeting. At least one precinct selected in each county must have had more than 150 votes cast at the election. The election administrator must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that jurisdiction will be conducted, as soon as the decisions are made. The secretary of state must post this information on the secretary of state's Web site.

Subd. 3. **Scope and conduct of review.** The election administrator shall appoint the postelection review official as defined in subdivision 1. The postelection review must be conducted of the votes cast for at least one single-winner ranked-choice voting election, if applicable, and one multiple winner ranked-choice voting election, if applicable. The review must be conducted of elections decided most closely, by percentage. The

10.1 postelection review official may conduct postelection review of the votes cast for
10.2 additional offices. The postelection review must be conducted in public at the location
10.3 where the voted ballots have been securely stored after the general election or at another
10.4 location chosen by the election administrator. The postelection review official for each
10.5 precinct selected must conduct the postelection review and may be assisted by election
10.6 judges designated by the postelection review official for this purpose. The party balance
10.7 requirement of section 204B.19 applies to election judges designated for the review. The
10.8 postelection review must consist of a manual count of the ballots used in the precincts
10.9 selected and must be performed in the manner provided by section 204C.21. To the
10.10 extent practicable, the postelection review must be conducted in the manner provided for
10.11 recounts under section 204C.361. The postelection review must also include testing of
10.12 the accumulation software, using stored electronic data for those precincts that are not
10.13 reviewed by manual count. The review must be completed no later than two days before
10.14 the meeting of the canvassing board to certify the results of the election.

10.15 Subd. 4. **Standard of acceptable performance by voting system.** A comparison
10.16 of the results compiled by the voting system with the postelection review described in this
10.17 section must show that the results of the electronic voting system differed by no more than
10.18 one-half of one percent from the manual count of the offices reviewed. Valid votes that
10.19 have been marked by the voter outside the vote targets or using a manual marking device
10.20 that cannot be read by the voting system must not be included in making the determination
10.21 whether the voting system has met the standard of acceptable performance for any precinct.

10.22 Subd. 5. **Additional review.** (a) If the postelection review reveals a difference
10.23 greater than one-half of one percent, the postelection review official must, within two
10.24 days, conduct an additional review of at least three precincts in the same jurisdiction
10.25 where the discrepancy was discovered. The election administrator must immediately
10.26 publicly select by lot the additional precincts for review. The postelection review official
10.27 must complete the additional review within two days after the precincts are selected and
10.28 report the results immediately to the county auditor. If the second review also indicates a
10.29 difference in the vote totals compiled by the voting system that is greater than one-half of
10.30 one percent from the result indicated by the postelection review, the election administrator
10.31 must conduct a review of the ballots from all the remaining precincts in the jurisdiction.
10.32 This review must be completed no later than six weeks after the election.

10.33 (b) If the results from the jurisdictionwide reviews clearly indicate that an error
10.34 in vote counting has occurred, the postelection review official must conduct a manual
10.35 recount of all the ballots in the jurisdiction for the affected office. The recount must be

11.1 completed and the results reported to the appropriate canvassing board no later than ten
11.2 weeks after the election.

11.3 Subd. 6. **Report of results.** Upon completion of the postelection review, the
11.4 postelection review official must immediately report the results to the county auditor.
11.5 The election administrator must then immediately submit the results of the postelection
11.6 review electronically or in writing to the secretary of state not later than two days before
11.7 the canvassing board meets to canvass the election. The secretary of state shall report the
11.8 results of the postelection review at the meeting of the canvassing board to canvass the
11.9 election.

11.10 Subd. 7. **Update of vote totals.** If the postelection review under this section results
11.11 in a change in the number of votes counted for any candidate, the revised vote totals must
11.12 be incorporated in the official result from those precincts.

11.13 Subd. 8. **Effect on voting systems.** If a voting system is found to have failed
11.14 to record votes accurately and in the manner provided by the Minnesota election law,
11.15 the voting system must not be used at another election until it has been examined and
11.16 recertified by the secretary of state. If the voting system failure is attributable to either its
11.17 design or to actions of the vendor, the vendor must forfeit the vendor bond required by
11.18 section 206.57 and the performance bond required by section 206.66.

11.19 Subd. 9. **Costs of review.** The costs of the postelection review required by this
11.20 section must be allocated as follows:

11.21 (1) the governing body responsible for each precinct selected for review must pay
11.22 the costs incurred for the review conducted under subdivision 2 or 5, paragraph (a);

11.23 (2) the vendor of the voting system must pay any costs incurred by the secretary
11.24 of state to examine and recertify the voting system; and

11.25 (3) the secretary of state must reimburse local units of government for the costs of
11.26 any recount required under subdivision 5, paragraph (b).

11.27 Subd. 10. **Time for filing election contest.** The appropriate canvass is not
11.28 completed and the time for notice of a contest of election does not begin to run until all
11.29 reviews under this section have been completed.

11.30 **Sec. 15. RULES.**

11.31 The secretary of state may adopt rules necessary to implement the requirements
11.32 and procedures established by this chapter.